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Department of

OFFICE _____

STATION _____

No. 1104

A 38 1/2

Dated - 2 - 21

Date

To whom sent

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(SUBJECT.)

Suits (S. Kanara) Mangalore Dt. Municipality - Q.S. No 223/2
Assignment of land - Defence Dam
Hon'ble Ramaprasad

* Not to be filled in the case of permanent records.

REVENUE **DEPARTMENT.**

Received 192 *Registered* A 3868 192

" *Subject.*

Suit - 223/21 - Mangalore Munsif's Court.

ENCLOSURES.
No. 3
Spare copies ——

Ref. on No. 4760-21-V. 3.

Station Mangalore *dated the* 26th September 19 2

From (*Name*) R. H. Ellis, Esquire, I.C.S.,

(*Designation*) Collector of South Kanara.

To The Secretary to the Board,
Land Revenue, Madras.

Sir,

I have to inform the Board that one Narsaya Hegde has filed the above suit against Government for a declaration that plot S. No. 54/3 of Amblamogar village belongs to Plaintiff &c.

2. The plaint plot is a portion of S. No. 44 classed as assessed waste at Settlement. It was applied for on darkhast by the present 1st and 2nd Defendants in Novembe 1914. The present Plaintiff was not examined in the cas as his land lay at some distance from the darkhast plot - which was finally assigned to the applicants, as they were fou to be best entitled to get it. A 'D' notice had, however

been sent to the Plaintiff, but as he refused to receive it, a copy was affixed to the wall of his house on 28th September 1915.

3. In 1916 the Plaintiff sent a suit notice claiming -- the plot as his warg. He relied on two sale-deeds of 1838 and 1840 and contended that he had been in possession and enjoyment of the plaint plot. At the enquiry held by the Revenue ----- Inspector, the Plaintiff failed to produce his documents, ---- though he had stated in the suit notice that he was prepared - to produce them whenever called upon to do so. The Revenue - Inspector also reported that there was nothing to prove ------ Plaintiff's possession or enjoyment. The suit notice was, -- therefore, recorded by Mr. Vibert in April 1917. Hence the - suit.

4. On receipt of the plaint, I made one more attempt to investigate Plaintiff's title by directing the Tahsildar to -- call upon the Plaintiff to produce his documents. The ------ Tahsildar accordingly served a notice on him to do so, but he declined to receive the notice.

5. The Government Pleader, Mangalore, who has been ----- consulted by me, is of opinion that Government has a good case and that Plaintiff's claim, if any, is now clearly barred by - Limitation. I agree with him and request that the enclosed - draft written statement may be approved.

6. I propose to file an extract from the Settlement --- Register relating to the plaint plot.

7. I enclose a copy of the plaint and the statement --- prescribed in B. S. O. No. 93.

D Ramachar
26.9.21

For Collector.

26/9/21

AN
26.9.21

Secretary

In the Court of the District Munsiff of Mangalore.

Original Suit No. 223/1921.

Between

M. Narsaya Hegde. Plaintiff.

and

Abdulrahiman and 2 others. Defendants.

Written statement of 3rd Defendant under Order VIII and Rule 1 C.P.C.

The Defendant abovenamed states as follows:-

1. Plaintiff's suit is unsustainable in law and his --- claim to the plaint plot is frivolous.

2. This Defendant denies that the suit plot forms portion of the Plaintiff's wargland or that it has ever been in - his possession and enjoyment as such.

3. The plot in question is Government land and was ---- rightly demarcated as such at the survey and settlement. This Defendant denies that there has been any mistake at settlement regarding its classification.

4. The plaint plot being at the absolute disposal of -- Government was assigned to the Defendants 1 and 2 as being best entitled to get the same.

5. The plaint plot having admittedly been excluded from Plaintiff's patta at the settlement which took place more than 12 years ago, he is now estopped from seeking any relief in -- respect of the same. His remedy, if any, is time barred.

6. Plaintiff's suit for a declaration is clearly unsustainable at law. It is further barred by the law of limitation.

7. The cause of action for the suit has been wrongly -- stated. The statement in paragraph 10 of the plaint that no notice of the assignment or of the darkhast proceedings was -- given to the Plaintiff is incorrect.

8. Plaintiff is not entitled to any relief.

It is accordingly prayed that Plaintiff's suit be ---- dismissed with costs.

26921
For Collector.

26/9/21

In the Court of the District Munsiff of Mangalore.

O. S. No. /1921.

M. Narsaya Hegde. Plaintiff.

Versus

1. Abdulrahiman.
2. H. Koragappa. Defendants.
3. The Secretary of State for India in Council through the Collector of South Kanara.

Plaint under Order Rule · Civil Procedure Code.

Plaintiff begs to state as follows:-

I. Plaintiff is the son of Lakshuman Hegde residing in Mangalore Town. His address for service is as above.

II. Defendant No. 1 Abdulrahiman, Defendant No. 2 ------- H. Koragappa, Fish Merchants, Defendant No. 3 The Secretary of State for India in Council through the Collector of South ---· Kanara. Defendants 1 and 2 reside at Hoige Bazaar, Mangalore Town and 3rd Defendant resides at Mangalore Town.

III. (1) Plaintiff is the owner of S. No. 54/3.

(2) That the said plot is and always has been in the - possession and enjoyment of Plaintiff and his predecessors-in-title.

(3) That the said plot is included in Plaintiff's title-deeds.

(4) 3rd Defendant through the Tahsildar of Mangalore -- behind the back of Plaintiff and without notice to Plaintiff - assigned the said plot S. No. 54/3 to Defendants 1 and 2 on ---- darkhast in D. R. No. 1518/1324 in 1915.

(5) That the act of 3rd Defendant in so assigning the - said plot to Defendants 1 and 2 is not justifiable and is ---- ultra vires.

(6) That the said plot being a part of Plaintiff's warg land though left out of the Plaintiff's patta owing to a ----- settlement mistake is not at the disposal of the 3rd Defendant and any assignment of the same by 3rd Defendant is not binding on Plaintiff.

(7) That recently Defendants 1 and 2 are about to ----- trespass upon and to take wrongful possession of said plot --- with the aid afforded to them by the grant of said patta by -- 3rd Defendant and his servants.

(8) Plaintiff is therefore entitled to have a declaration that the said assignment is invalid and liable to be ---- cancelled and that patta for said plot be issued to Plaintiff in his own name.

(9) The Plaintiff addressed a registered notice, under P. R. No. 2802/Rev. 16 Section 80 C. P. C. to 3rd Defendant through the Collector of -- South Kanara intimating to him all the aforesaid facts and --- claiming cancellation of patta of said plot granted to ------- Defendants 1 and 2 and claiming patta for Plaintiff and that - unless this was done, the 3rd Defendant would be liable to --- suit; the 3rd Defendant in reply simply stated that the suit notice was recorded; in other words 3rd Defendant's reply not being an absolute and unqualified denial of Plaintiff's title, Plaintiff submits that no question of limitation arises.

(10) The cause of action for this suit arose on 30th June 1915 when the said wrongful assignment came to the knowledge of Plaintiff inasmuch as behind the back of Plaintiff and without notice to Plaintiff the 3rd Defendant assigned plot S. No. 54/3

to Defendants 1 and 2 in Amblamogru village within the ------ jurisdiction of this Court.

(11) Plaintiff values the reliefs claimed in this suit at Rs. 15-0-0 for purposes of jurisdiction and court fee.

(12) Plaintiff prays for judgment and decree against - Defendants for the following and other reliefs:-

(i) Declaration that plot S. No. 54/3 of Amblamogru village belongs to Plaintiff and that the patta thereof issued to ----- Defendants 1 and 2 is liable to be ------- cancelled and that the said patta is to be issued to Plaintiff in his own name.	10- 0- 0
(ii) A permanent injunction restraining Defendants 1 and 2 from trespassing or taking wrongful possession of said plot -- S. No. 54/3 from Plaintiff.	5- 0- 0
Total	Rs. 15- 0- 0
(iii) Costs of suit and such other -- reliefs as this Court deems fit.	

Mangalore,
6th May 1921.

Sd/ Narsaya Hegde in Kanarese.
Plaintiff.

(True Copy)

26/9/21
For Collector.

26/9/21

A 3868/21 ——— 4

Suit (S. Kanara) Mangalore Dt. Munsiff — O.S. No. 223/21 -
Ambalamogaru — Assignment of land - Defence Sanctioned

Re. Ms 1104/7-X-21

The Board Sanctions the defence of the Suit and Approves the draft W.S.

W 3X

30.9.21 3.10.21 To the Collr S Kanara

5-X-21

Bonds